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SPECIFIC GROUPS AND INDIVIDUALS: OTHER VULNERABLE GROUPS AND INDIVIDUALS

The protection of human rights in the context of HIV/AIDS

Paper submitted by the International Labour Organization

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I. INTERNATIONAL GUIDELINES ON HIV/AIDS AND HUMAN RIGHTS

1. In September 1996, the Office of the United Nations High Commissioner for Human Rights and UNAIDS adopted 12 International Guidelines on HIV/AIDS and Human Rights designed to help ensure that international standards are observed at the country level. The Commission on Human Rights explicitly recognized the mandates of the United Nations agencies in promoting the implementation of the Guidelines.

2. In its resolution 1999/49 of 27 April 1999, the Commission on Human Rights requested that the Secretary-General solicit comments from Governments, United Nations organs, programmes and specialized agencies, and international and non-governmental organizations, including the ILO, regarding the steps that they have taken to promote and implement the International Guidelines on HIV/AIDS and Human Rights, and to submit a report[1] for consideration at the fifty-seventh session of the Commission.

II. STEPS TAKEN BY THE ILO TO PROMOTE AND IMPLEMENT THE GUIDELINES ON HIV/AIDS (AS REPORTED TO THE SECRETARY-GENERAL IN NOVEMBER 2000)

(a) Regional Tripartite Workshop on Strategies to tackle the Social and Labour Implications of HIV/AIDS (October 1999)

3. Involved the participation of African Governments and representatives of workers' and employers' organizations from some 20 countries;

Concluded a draft Platform of Action on HIV/AIDS in the context of the world of work in Africa.

(b) Ninth ILO African Regional Meeting (Abidjan, December 1999)

4. At this meeting, African labour ministers:

Called on member States and the ILO to implement the Platform of Action on HIV/AIDS as a matter of urgency;

Emphasized the collective responsibility of Governments and employers' and workers' organizations in the fight against HIV/AIDS, reflecting:

The urgent need to educate workers on the basic facts about HIV/AIDS and their rights;

The need to raise awareness among employers of the need to accord HIV/AIDS a corporate priority;

The need to increase overall government awareness of the negative impact of the epidemic on development efforts.

(c) Special High-level Meeting on HIV/AIDS and the World of Work (June 2000)

5. The International Labour Conference adopted a resolution concerning HIV/AIDS and the world of work (see appendix).

(d) ILO Programme on HIV/AIDS and the World of Work: created to implement the above-mentioned resolution (November 2000)

6. The main objectives of the Programme are:

To help member States to combat the spread and threat of HIV/AIDS through workplace initiatives, cope with its consequences, and provide protection and support to workers and their families affected by the epidemic.

7. It is hoped that the new ILO Programme, using a rights-based approach, will:

Increase awareness about the implications of HIV/AIDS for the world of work, with a particular focus on employment, productivity and social security.

Improve the capability of ILO's tripartite constituents to design and implement appropriate policies and programmes for combating HIV/AIDS and its effects on the workplace, including issues of stigmatization and discrimination.

Identify strategies and policy options to create practical measures which can be easily implemented in the workplace with the aim of preventing the spread of the epidemic.

8. These steps taken by the ILO to apply the International Guidelines on HIV/AIDS and Human Rights are rooted in the framework of the ILO's Labour Standards, its "decent work" approach, the Declaration on Fundamental Principles and Rights at Work, and the forthcoming Code of Practice on HIV/AIDS and the World of Work, all of which promote respect for human rights in the context of HIV/AIDS.

III. DECENT WORK: THE PRIMARY GOAL OF THE ILO

9. The primary goal of the ILO today is:

"To promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity."[2]

10. The ILO has four strategic objectives for putting decent work into practice:

A standards approach to fundamental principles and rights;

Employment and job creation;

Social protection for all workers and their families;

The promotion of tripartism and social dialogue.

11. The HIV/AIDS pandemic and its impact on the world of work are a major threat and a barrier to fulfilling the objectives of the ILO's decent work development agenda. The ILO intervention will emphasize, through advocacy at the highest level, the need to protect the rights of people living with HIV/AIDS. The impact of HIV/AIDS on gender equality, access to social protection and child labour and the action that the ILO is undertaking in those fields will be examined in this section.

(a) Gender equality

12. HIV/AIDS is a threat to gender equality. Women are highly vulnerable to HIV/AIDS for both biological and cultural reasons:

Women are particularly affected when a male head of household falls ill;

The burden of caring for children orphaned as a result of the pandemic is borne mainly by women;

Loss of income from a male income-earner may compel women to seek other sources of income, putting them at risk of sexual exploitation.

13. The principle of gender equality in employment will be connected more explicitly to the subordinate status and role of women and girls in society and in the family, as women's lack of power is directly associated with their higher exposure to infection by the disease. The ILO's influence at the workplace, particularly through the mobilization of the social partners, will be critical in helping to develop values and attitudes that discourage the spread of HIV/AIDS and provide a safe environment for the promotion of a change in attitude and behaviour, especially of men.

(b) Social protection

14. Social security is a human right that is acknowledged in:

The Universal Declaration of Human Rights (arts. 22 and 25);

The International Covenant on Economic, Social and Cultural Rights (art. 7);

Several ILO Conventions.

(i) The HIV/AIDS pandemic: a dramatic challenge facing social security

15. The HIV/AIDS pandemic is the most dramatic of the challenges facing social security in certain countries, notably in Africa. The pandemic underlines the gravely inadequate nature of social protection systems in the countries most affected. People living with HIV/AIDS are often

forced to leave jobs and are isolated in their communities, with limited opportunities to earn an income. In the absence of adequate public support systems, especially in the developing countries, families have to bear the full cost of the disease, pushing them deep into poverty.

(ii) Effective social protection for all: an essential feature of the ILO decent work approach

16. As mentioned previously, one of the essential features of the ILO decent work approach is that everybody is entitled to basic social protection. The official goal of the ILO in this field is, therefore, effective social protection for all. This goal is far from being achieved.

17. Referring to the HIV/AIDS pandemic, the report to the eighty-ninth session of the International Labour Conference held in 2001, entitled "Social security: Issues, challenges and prospects" underlines that:

> "International solidarity is urgently needed to back up national efforts - particularly to help in prevention campaigns and to assist in the provision of health care. Partnerships must be developed between the competent health authorities, governmental and non-governmental organizations and the drug industry to ensure a supply of medication which, if international prices were charged, would be totally beyond the reach of patients in certain communities."[3] [...] In a globalizing world, where people are increasingly exposed to global economic risks, there is growing consciousness of the fact that a broad-based national social protection policy can provide a strong buffer against many of the negative social effect of crises. However, such a policy might need to be complemented by new international and possibly global financing mechanisms [...] as proposed by the recent 'Social Summit+5' Special Session of the United Nations General Assembly in Geneva. These proposals concern, inter alia, the possible establishment of a (voluntary) World Solidarity Fund, international cooperation in tax matters, debt relief, living up to development aid commitments and the provision of more concessional financing."[4]

(c) Child labour

18. There is increasing evidence of the devastating economic and social impact of HIV/AIDS in countries with high infection rates. Rising levels of child labour is strongly assumed to be one of its consequences. Infection often results in the exacerbation of poverty for the victim's household. Children may be withdrawn from school and forced into the labour market in order to contribute to family income, or to ensure their own survival. With the loss or illness of their parents, many children are forced to become the head of the household and find ways to provide for more needy siblings.

19. While there is a strong assumption that the HIV/AIDS epidemic contributions to child labour, very few comprehensive studies have been carried out to explore the different aspects of the link between the two. The ILO will undertake research and carry out surveys in Tanzania, South Africa, Zambia and Zimbabwe. These countries were selected because of their relatively high HIV/AIDS infection rates and because they have established child labour programmes and participate in IPEC.[5] The projects will provide an improved understanding of the correlation

between HIV/AIDS and child labour, concentrating especially on school drop-out rates, entry into the worst forms of child labour and HIV/AIDS. They will also help to improve understanding of the extent to which development efforts have been set back by HIV/AIDS.

IV. ILO AND A RIGHTS-BASED APPROACH TO COMBAT HIV/AIDS IN THE WORLD OF WORK

(a) Protection of human rights: a core principle in the prevention of HIV/AIDS

20. The ILO subscribes to the principle that the protection of human rights, and particularly protection against discrimination, is a core principle for the prevention of HIV/AIDS. According to the document for discussion at the Special High-Level Meeting on HIV/AIDS and the World of Work:

> "From an ILO perspective, discrimination - especially discrimination in the world of work - is one of the most significant human rights abuses in the area of HIV/AIDS. The rights of people living with HIV/AIDS, such as the right to non-discrimination, equal protection and equality before the law, privacy, liberty of movement, work, equal access to education, housing, health care, social security, assistance and welfare, etc., are often violated on the sole basis of their known or presumed HIV/AIDS status. Moreover, individuals who suffer discrimination and lack of respect for their human rights are both more vulnerable to becoming infected and less able to cope with the burdens of HIV/AIDS. People exposed to HIV will not seek testing, counselling, treatment or support if this means facing discrimination, lack of confidentiality, loss of employment or other negative consequences. [....] Experience has also shown that the incidence and spread of HIV/AIDS is significantly higher among groups which already suffer from a lack of respect of their human rights and from discrimination, or which are marginalized because of their legal status. These include women, children, people living in poverty, minorities, indigenous peoples, migrants, people with disabilities, sex workers, homosexuals, injecting drug users and prisoners."[6]

(b) Consequences of the lack of respect for human rights

21. Human rights issues become more critical in crisis situations. The HIV/AIDS crisis is no exception. A lack of respect for human rights fuels the pandemic in at least three ways.[7]

Discrimination increases the impact of the disease on people living with HIV/AIDS and those presumed to be infected, as well as on their families and associates;

People are more vulnerable to infection when their economic, social or cultural rights are not respected;

Where civil and political rights are not respected, it is difficult for civil society to respond effectively to the epidemic.

(c) Instruments promoting a rights-based approach

22. This rights-based approach to combat HIV/AIDS at the workplace is promoted through different instruments of the ILO, namely:

The Declaration on Fundamental Principles and Rights at Work and its follow-up.

Conventions regarding labour standards related to the problem of HIV/AIDS.

The Code of Practice on HIV/AIDS and the World of Work (to be submitted to a meeting of experts for adoption in May 2001).

V. DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK AND ITS FOLLOW UP, 1998

(a) Goal

To reaffirm the immutable nature of the fundamental principles and rights embodied in the ILO Constitution and in the Declaration of Philadelphia;

To promote the universal application of these principles and rights.

23. The Declaration states that, in freely joining the ILO, all members have endorsed the principles and rights set out in the Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization.

(b) Fundamental principles and rights

Freedom of association and the effective recognition of the right to collective bargaining;

Elimination of all forms of forced or compulsory labour;

Effective abolition of child labour;

Elimination of discrimination in respect of employment and occupation.

24. The right to non-discrimination in respect of employment and occupation is particularly relevant in the fight against the HIV/AIDS pandemic, and the implementation of the other rights and principles contained in the Declaration can be useful to reduce the pandemic.

(c) Fundamental Conventions

25. These principles and rights at work have been expressed and developed in eight Conventions which are recognized as fundamental by the international community and the ILO:

Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105)

Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182)

Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

(d) In the absence of ratification

26. While the above-mentioned Conventions have been widely ratified, the Declaration states that all Members, even if they have not ratified the fundamental Conventions, have an obligation arising from the very fact of membership in the Organization to respect, promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are subject of those Conventions.

27. The principle of non-discrimination in respect of employment and occupation is among these fundamental principles, and HIV/AIDS policies adopted by the member States should be based on that common value, even if they have not ratified Convention No. 111.

(e) Follow-up

28. In order to give it full effect, the Declaration contains a follow-up which:

Encourages the efforts made by member States to promote the fundamental principles and rights reaffirmed in the Declaration;

Helps to identify areas calling for technical assistance from the ILO or other sources to help member States to implement the fundamental principles and rights.

29. Two tools help to give effect to the Declaration:

(i) **Annual Review**. This tool is composed of annual reports from member States that have not ratified one or more of the ILO fundamental Conventions. They provide a baseline against which each country can measure its progress towards achieving respect for the principles and rights. Employers' and workers' organizations may also provide information on the State's progress on implementing the Declaration.

(ii) **Global report**. This provides information on trends and developments around the world. It focuses on one category of principles and rights each year, and covers all member States, regardless of whether they have ratified the relevant Conventions. Thus, in a four-year period, all four categories of principles and rights will have been examined.

(f) Relation between the Declaration, its follow up and ILO standards and supervisory procedures

30. The Conventions and Recommendations adopted by the International Labour Conference are international treaties that, once they have been ratified by a country, create obligations under international law. They are subject to regular and detailed supervision, and problems raised in their application give rise to assistance from ILO.

31. The Declaration takes the form of a "political track" which supports the "legal track" of the Conventions.

32. Technical cooperation is the principal instrument through which the Declaration will be realized universally. It supports the following efforts:

Promoting ratification and implementation of the fundamental Conventions;

Assisting member States which are not yet in a position to ratify, to respect, promote and realize the principles that are the subject of those Conventions;

Helping member States to create a climate conducive to economic and social development, based on respect for the fundamental principles and rights at work.

33. In the context of HIV/AIDS, the Declaration can be used, in particular, to promote the principle and right to equality in respect of employment and occupation contained in Convention No. 111.

VI. RELEVANT ILO CONVENTIONS TO COMBAT THE HIV/AIDS PANDEMIC AT WORK

34. While there is no international labour Convention or Recommendation that specifically addresses the issue of HIV/AIDS in the workplace, many instruments exist which cover both protection against discrimination and the prevention of infection and which can be and have been used. It is important to remember that the Conventions are only binding if the States have ratified them. Following is a brief look at the Conventions that are particularly relevant to the promotion of respect for human rights in the context of HIV/AIDS at work:

(a) Equality of opportunity and treatment in employment

(i) Convention No. 111: a key instrument

35. Convention No. 111 concerning discrimination in respect of employment and occupation is a key instrument on the right to equality at work:

One of the eight fundamental Conventions;

Ratifying States[8] must respect the right to non-discrimination, which is the subject of this Convention.

(ii) Principle of the Convention

36. The Convention prohibits any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment and occupation which includes access to training, access to jobs, promotion processes, security of tenure, remuneration and terms and conditions of employment including leave, rest periods, occupational safety and health measures and social security benefits.

(iii) Grounds of discrimination

37. The grounds on which the Convention prohibits discrimination are:

Race, colour, sex, religion, political opinion, national extraction and social origin;

The Convention permits ratifying States to add additional grounds, after consulting workers' and employers' organizations (art.1 (1) (b)).

The Committee of Experts on the Application of Conventions and Recommendations

38. The Committee of Experts on the Application of Conventions and Recommendations has recommended,[9] and the Governing Body has been discussing, the elaboration of an additional Protocol to Convention No. 111 which could cover, among other new grounds, HIV/AIDS.

39. In its 1996 Special Survey on equality,[10] the Committee of Experts noted a tendency among employers to screen workers systematically for HIV infection, without their knowledge, either prior to recruitment or as part of regular occupational health examinations. The Committee stated that there was no doubt that such practices open the way to discrimination in access to and retention of employment. The Committee underlined that protective provisions as regards HIV/AIDS are necessary in order to prohibit the screening of workers without their consent as well as to maintain the confidentiality of the results of examinations that may be carried out for reasons of public health.

40. The Committee of Experts has already accepted that the prohibition of discrimination contained in the Convention may be extended to the area of HIV/AIDS, when it examined comments submitted by Spanish trade unions in relation to direct workplace discrimination, and when welcoming Costa Rica's new AIDS Decree No. 27894-S of 3 June 1999, a model of its kind in banning discrimination and encouraging preventive measures in the world of work.

Member States

41. It is interesting to note that many Governments, in their annual reports under the *Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, mentioned HIV/AIDS as grounds on which discrimination is prohibited despite the fact that it is not listed in Convention No. 111.[11]

(iv) Promotion of pro-active measures

42. Convention No. 111 also promotes proactive measures designed to meet the particular requirements of persons requiring special protection. Persons with disabilities are listed among the groups that might benefit from affirmative action or measures of accommodation at the workplace. Recommendation No. 111, which accompanies the Convention, suggests the creation of appropriate agencies and advisory committees, composed of representatives of employers' and workers' organizations and of other interested bodies, to promote acceptance of the principle of non-discrimination in employment and to carry out specific activities such as information and education campaigns.

(b) Termination of Employment

(i) The Termination of Employment Convention, 1982 (No. 158)

43. The Termination of Employment Convention, 1982 (No. 158) sets out the international position concerning possible dismissals:

> Termination of employment can take place only when there is a valid reason connected with the capacity or conduct of the worker, or based on the operational requirements of the undertaking, establishment or service (art. 4);
>
> Temporary absence from work because of sickness or injury, whether work-related or not, is not a valid reason for dismissal (art. 6). Both these provisions are relevant for HIV/AIDS sufferers.

(ii) Statement from the consultation on AIDS and the workplace, Geneva, 27-29 June 1988 (WHO in association with ILO)

44. The principles and rights related to termination of employment in Convention No. 158 are also contained in the WHO/ILO statement. According to this statement, HIV infection is not a cause for termination of employment; persons with HIV-related illnesses should be able to work as long as they are medically fit for available and appropriate work.

45. This statement recommends that:

> Workers infected with HIV who are in good health be treated in the same way as other workers;
>
> Workers with HIV-related illnesses, including AIDS, be treated the same as any other workers suffering from ill-health.

Committee of Experts on the Application of Conventions and Recommendations

46. In its general survey of 1995 on the "Protection against unjustified dismissal",[12] the Committee of Experts on the Application of Conventions and Recommendations recalled the WHO/ILO statement.

47. The Committee deemed it particularly important to weigh and evaluate carefully the repercussions that absences of this kind may have in practice on the operation of the enterprise, bearing in mind the difficult consequences that termination of employment can entail for the worker.

(c) Occupational safety and health benefits

48. The social security instruments of the ILO provide guidance on HIV/AIDS issues from the point of view of benefit entitlements for occupational injury through the Employment Injury Benefits Convention, 1964 (No. 121) and through the principle of non-discriminatory coverage set out in the Social Security (Minimum Standards) Convention, 1952 (No. 102). Those Conventions have not been ratified by a large number of countries (40 ratifications for Convention No. 102 and only 23 for Convention No. 121). This is probably mainly due to the difficulty of implementing them.

(d) Vocational rehabilitation for disabled workers

49. The Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) bans discrimination based on disability. Article 4 promotes special protective measures, such as workplace accommodation and transfers in order to enable persons with disabilities to continue to gain a living until such time as their disability affects their capacity to do a particular job or until they are too ill to work at all. The text has clear relevance for HIV/AIDS in the workplace, and the accompanying Recommendation No. 168 suggests measures starting with community-based care and highlighting strategies for disabled workers in rural areas, that could also guide HIV/AIDS policy.

50. The ILO document *HIV/AIDS and Employment*, states that:

> the time between the onset of HIV infection and the development of clinical AIDS, or at least up to the final stages when a worker has to cease work, frequently 10 years, is sufficiently long for infected workers to be able to retain their jobs. However, in view of their gradual deterioration in health, they need to take periods of sick leave that become longer; they also suffer from physical and psychological problems that are increasingly disabling. This means that it is necessary to adapt the working environment and job content to the progression of the disease.[13]

(e) Occupational safety and health

(i) Occupational Safety and Health Convention, 1981 (No. 155)

51. The Convention sets out basic requirements to protect workers, all of which are relevant to the field of HIV/AIDS, such as:

> Protective clothing and equipment at no cost to the worker;

The right of infected workers with reduced working capacity to be transferred to less onerous jobs;

The right of workers to leave a situation of imminent danger.

(ii) Occupational Health Services Convention, 1985 (No. 161)

52. The Convention requires ratifying States to adopt a comprehensive, coordinated national policy in the area of occupational health services. Its accompanying Recommendation No. 171 lists a number of measures for workplace safety which are relevant to HIV/AIDS:

Assurance that health surveillance is not used for discriminatory purposes;

Confidentiality of medical data (The ILO Code of Practice on the Protection of Workers' Personal Data can also be useful);[14]

Collaboration in finding alternative employment where transfer is required for health reasons;

Worker counselling on the results of health examinations;

Principle of "no cost to the worker" for the health-related facilities provided by the health service;

Advice that occupational health services should, as reasonably practicable, be made available to self-employed persons, such as informal sector workers.

(f) Freedom of association

53. The international labour standards dealing with freedom of association are tools that can be used to address HIV/AIDS in collective bargaining agreements and labour relations pacts. Of particular interest are the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) and the Promotion of Collective Bargaining Convention, 1981 (No. 154), which require policies to encourage the free negotiation of terms and conditions of employment. These could include measures for the prevention of and protection against HIV/AIDS discrimination taken jointly by employers' and workers' organizations, leading to the signature of collectively binding agreements.

(g) Specific groups of workers

54. Several Conventions refer to specific groups of workers who, by the nature of their work, are at risk of HIV infection.

(i) Nursing personnel

55. The Nursing Personnel Recommendation, 1977 (No. 157) requires the provision of protective clothing and temporary transfer from jobs placing staff at risk.

(ii) Migrant workers

56. The Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) address the inequalities that migrant workers face. The technical requirements set out in Convention No. 97, such as medical testing to assess migrants' and their family members' state of health, merit attention from the point of view of HIV/AIDS, as do the provisions of Convention No. 143 on migrant workers' human rights, in particular their right to equal treatment with nationals with respect to social security benefits (art. 6) or the right not to be expelled because of illness of the workers or of the family members authorized to accompany them (art. 8).

(iii) Seafarers

57. Regarding seafarers, the Conventions generally cover shipboard conditions, medical examinations and safe, healthy work environments. Of interest is the 1994 Maritime Conference resolution, which specifically refers to the need to include information on the prevention of HIV infection in the medical examinations of seafarers.

(iv) Part-time workers

58. The Part-Time Work Convention, 1994 (No. 175) also provides useful guidance for a policy to cover HIV-infected workers who have to change working time arrangements because of the onslaught of the disease. The Convention requires ratifying States to ensure that part-time workers receive the same protection as that accorded to comparable full-time workers in respect of, inter alia, occupational safety and health and discrimination in employment. It also requires implementation of the principle of proportionality in the areas of wages and social security conditions.

VII. ILO CODE OF PRACTICE ON HIV/AIDS AND THE WORLD OF WORK (forthcoming)

59. The ILO Code of Practice on HIV/AIDS and the World of Work will be submitted for adoption to a committee of experts in May 2001.

(a) Objective

60. The objectives of the Code are:

To promote decent work in the face of HIV/AIDS, by preventing and managing HIV/AIDS and its impact in the world of work and by creating a working environment in which discrimination based on HIV/AIDS status is eliminated;

To provide guidance to a broad spectrum of policy makers, organizations and social partners.

(b) Scope and application

61. It applies to the world of work in its broadest sense, including, for example, part-time work, unpaid work, and work in the informal economy.

(c) Key principle

62. The Code is based on key principles that reflect the ILO human rights-based approach in the fight against HIV/AIDS such as:

Non-discrimination ;

Gender equality ;

Social dialogue ;

Confidentiality;

Prevention;

Care and support.

(d) Provisions

63. The provisions of the Code cover a wide range of subjects:

Prevention through information and education;

Training;

Testing;

Care and support.

(e) Relation between the Code and the other ILO instruments that can be used in combating HIV/AIDS in the world of work

64. The Code is a method of implementation of human rights that supplements the legal framework of the Conventions and the principles contained in the Declaration. A code of practice is one of the best guarantees when legislation is inadequate. At the national level, such codes amount to a national contract binding employers' and workers' organizations to apply the same rules with regard to the employment of people with HIV/AIDS.

Notes

[1] Report of the Secretary-General to the Commission on Human Rights on the protection of human rights in the context of HIV/AIDS: human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) (E/CN.4/2001/80).

[2] Report of the Director-General: "Decent work", International Labour Conference, eighty-seventh session, 1999, p.3.

[3] International Labour Conference, eighty-ninth session, 2001, report VI, p.6.

[4] Ibid., p.9.

[5] International Programme on the Elimination of Child Labour.

[6] HIV/AIDS: a threat to decent work, productivity and development, International Labour Office, Geneva, 8 June 2000, p.11.

[7] Ibid., p.10.

[8] One hundred and forty-seven ratifications as of 26 March 2001.

[9] Special Survey on equality in employment and occupation, 1996, para. 297.

[10] Ibid. para. 60.

[11] International Labour Office, The review of annual reports under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, GB.280/3/1, two hundred and eightieth session, Geneva, March 2001.

[12] International Labour Conference, eighty-second session, paras. 137-141, and in particular para. 142 with regard to HIV infection.

[13] N'Daba, L. and Hodges-Aeberhard, J.: HIV/AIDS and Employment, ILO (Geneva, 1998).

[14] Protection of Workers' Personal Data: An ILO Code of Practice (Geneva 1997).

Annex

RESOLUTION CONCERNING HIV/AIDS AND THE WORLD OF WORK

The General Conference of the International Labour Organization (Geneva, June 2000),

Recalling that HIV/AIDS is at present a universal pandemic that threatens all people, but also recognizing that it disproportionately impacts on economically and socially disadvantaged and excluded groups,

Recognizing that HIV/AIDS is a growing health problem, as well as a developmental crisis with disastrous consequences for the social and economic progress of many countries,

Noting with deep concern that, of the nearly 34 million people worldwide currently living with HIV/AIDS, 95 per cent are in the developing countries, that in African countries development gains of the past 50 years, including the increase in child survival and in life expectancy, are being reversed by the HIV/AIDS epidemic, and that HIV infection is increasing rapidly in Asia, particularly in South and South-East Asia, and in the Caribbean, and that it threatens the political, economic and social sustainability of these regions, while recognizing that in the rest of the world a complacent attitude cannot be adopted and efforts on prevention reduced,

Recognizing the effects of HIV/AIDS on the world of work: discrimination in employment, social exclusion of persons living with HIV/AIDS, additional distortion of gender inequalities, increased number of AIDS orphans, increased incidence of child labour, and the retention of older persons in the labour force,

Recognizing that HIV/AIDS threatens decent work in an all-embracing manner, and noting that HIV/AIDS has adversely impacted on economic growth and employment in all sectors of the economy, depleted human resources, challenged social security and health systems, and threatened occupational health and safety systems,

Recognizing that the spread of AIDS can be prevented, including through actions at the level of the workplace, and that it is possible, by a multidimensional, integrated, sustained and coordinated international response, to prevent its spread and protect those who live with it and its consequences, including the families and communities affected,

Noting that a number of important initiatives have already been undertaken, including those by the United Nations organs and specialized agencies,

Recognizing that the non-availability and limited access to HIV/AIDS-related drugs and treatments at affordable costs in developing countries also has further accentuated the spread of the disease in those countries,

Recalling the adoption by the International Labour Conference of relevant and related instruments, including the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Occupational Safety and Health Convention, 1981 (No. 155) and the Occupational Health Services Convention, 1985 (No. 161),

Also recalling the adoption by the International Labour Conference of the Declaration on Fundamental Principles and Rights at Work, in 1998,

Noting the effect of some structural adjustment programmes on public health structures and services, education and social protection systems,

Recognizing the enormous potential of employers' and workers' organizations, in partnership with Governments, to contribute to the fight against the spread of HIV/AIDS and to support the needs of workers living with HIV/AIDS.

1. Calls upon the Governments of member States and, where applicable, employers' and workers' organizations to:

(a) Raise national awareness, including by involving other concerned groups as appropriate, particularly of the world of work, with a view to eliminating the stigma and discrimination attached to HIV/AIDS, as well as to fight the culture of denial, and thereby preventing the spread of HIV/AIDS;

(b) Strengthen the capacity of the social partners to address the pandemic;

(c) Strengthen occupational safety and health systems to protect groups at risk;

(d) Formulate and implement social and labour policies and programmes that mitigate the effects of AIDS;

(e) Effectively mobilize resources.

2. Requests the Governing Body of the International Labour Office to instruct the Director-General to:

(a) Continue and intensify, where appropriate, research on action to be taken and behaviours to be adopted in dealing with HIV/AIDS at the workplace;

(b) Present, within the framework of the discussion of the Programme and Budget for 2002-2003, a proposal regarding a meeting of experts which will develop international guidelines on action to be taken and behaviour to adopt on HIV/AIDS at the workplace;

(c) Collaborate with concerned international organizations in order to avoid duplication of efforts;

(d) Expand its capacity to deal with HIV/AIDS at the workplace, especially in its multidisciplinary teams;

(e) Undertaken research and surveys to determine the implications of HIV/AIDS for the world of work;

(f) Document and disseminate all useful information on national experiences including examples of good practices on HIV/AIDS at the workplace;

(g) Engage in advocacy and training on HIV/AIDS and the world of work;

(h) Strengthen the capacity of the social partner to formulate and effectively implement policies, programmes and activities at the national and enterprise levels.